

September 25

22210

CONGRESSIONAL RECORD — SENATE

craft, which I believe is likely to be incorporated in some fraction of our inventory in the future.

Whatever happened to the airplane? It has grown in importance in our general-purpose forces. What will happen? That depends largely on how good a job you do in making aircraft more reliable, economical, and effective.

CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT OF 1964 FOR CERTAIN EMPLOYEES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1526, H.R. 8427.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 8427) to provide for the establishment and maintenance of a Central Intelligence Agency Retirement and Disability System for a limited number of employees, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection the Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services, with an amendment, to strike out all after the enacting clause and insert:

TITLE I—TITLE AND DEFINITIONS

Part A—Title

SEC. 101. This Act may be cited as the "Central Intelligence Agency Retirement Act of 1964 for Certain Employees".

Part B—Definitions

SEC. 111. When used in this Act, the term—

- (1) "Agency" means the Central Intelligence Agency;
- (2) "Director" means the Director of Central Intelligence; and
- (3) "Qualifying service" means service performed as a participant in the system or, in the case of service prior to designation, service determined by the Director to have been performed in carrying out duties described in section 203.

TITLE II—THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Part A—Establishment of system

Rules and Regulations

SEC. 201. (a) The Director may prescribe rules and regulations for the establishment and maintenance of a Central Intelligence Agency Retirement and Disability System for a limited number of employees, referred to hereafter as the system; such rules and regulations to become effective after approval by the chairman and ranking minority members of the Armed Services Committees of the House and Senate.

(b) The Director shall administer the system in accordance with such rules and regulations and with the principles established by this Act.

(c) In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 102(d)(3) of the National Security Act of 1947 as amended (50 U.S.C. 403(d)(3)), that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, and notwithstanding the provisions of the Administrative Procedure Act (5 U.S.C. 1001 et seq.) or any other provisions of law, any determinations by the Director authorized by the provisions of this Act shall be deemed to be final

and conclusive and not subject to review by any court.

Establishment and Maintenance of Fund

SEC. 202. There is hereby created a fund to be known as the Central Intelligence Agency Retirement and Disability Fund which shall be maintained by the Director. The Central Intelligence Agency Retirement and Disability Fund is referred to hereafter as the fund.

Participants

SEC. 203. The Director may designate from time to time such Agency officers and employees whose duties are determined by the Director to be (1) in support of Agency activities abroad hazardous to life or health or (2) so specialized because of security requirements as to be clearly distinguishable from normal government employment, hereafter referred to as participants, who shall be entitled to the benefits of the system. Any participant who has completed fifteen years of service with the Agency and whose career at that time is adjudged by the Director to be qualifying for the system may elect to remain a participant of such system for the duration of his employment by the Agency and such election shall not be subject to review or approval by the Director.

Annuityants

SEC. 204. (a) Annuityants shall be participants who are receiving annuities from the fund and all persons, including surviving wives and husbands, widows, dependent widowers, children, and beneficiaries of participants or annuityants who shall become entitled to receive annuities in accordance with the provisions of this Act.

(b) When used in this Act the term—

- (1) "Widow" means the surviving wife of a participant who was married to such participant for at least two years immediately preceding his death or is the mother of issue by marriage to the participant.
- (2) "Dependent widower" means the surviving husband of a participant who was married to such participant for at least two years immediately preceding her death or is the father of issue by marriage to the participant, and who is incapable of self-support by reason of mental or physical disability, and who received more than one-half of his support from such participant.

(3) "Child", for the purposes of sections 221 and 232 of this Act, means an unmarried child, including (i) an adopted child, and (ii) a stepchild or recognized natural child who received more than one-half of his support from and lived with the participant in a regular parent-child relationship, under the age of eighteen years, or such unmarried child regardless of age who because of physical or mental disability incurred before age eighteen is incapable of self-support or such unmarried child between eighteen and twenty-one years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. A child whose twenty-first birthday occurs prior to July 1 or after August 31 of any calendar year, and while he is regularly pursuing such a course of study or training, shall be deemed for the purposes of this paragraph and section 221(e) of this Act to have attained the age of twenty-one on the first day of July following such birthday. A child who is a student shall not be deemed to have ceased to be a student during any interim between school years if the interim does not exceed four months and if he shows to the satisfaction of the Director that he has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the

school year is divided) immediately following the interim.

Part B—Compulsory contributions

SEC. 211. (a) Six and one-half per centum of the basic salary received by each participant shall be contributed to the fund for the payment of annuities, cash benefits, refunds and allowances. An equal sum shall also be contributed from the respective appropriation or fund which is used for payment of his salary. The amounts deducted and withheld from basic salary together with the amounts so contributed from the appropriation or fund shall be deposited by the Agency to the credit of the fund.

(b) Each participant shall be deemed to consent and agree to such deductions from basic salary, and payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular services during the period covered by such payment, except the right to the benefits to which he shall be entitled under this Act, notwithstanding any law, rule, or regulation affecting the individual's salary.

Part C—Computation of annuities

SEC. 221. (a) The annuity of a participant shall be equal to 2 per centum of his average basic salary for the highest five consecutive years of service, for which full contributions have been made to the fund, multiplied by the number of years, not exceeding thirty-five, of service credit obtained in accordance with the provisions of sections 251 and 252. In determining the aggregate period of service upon which the annuity is to be based, the fractional part of a month, if any, shall not be counted.

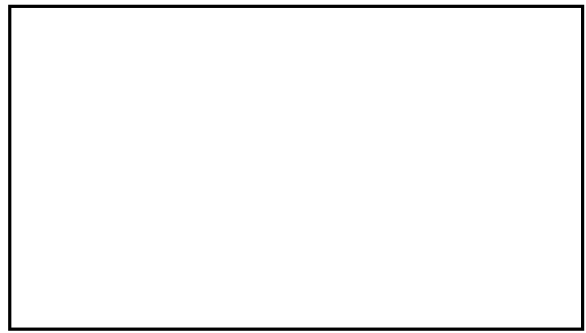
(b) At the time of retirement, any married participant may elect to receive a reduced annuity and to provide for an annuity payable to his wife or her husband, commencing on the date following such participant's death and terminating upon the death or remarriage of such surviving wife or husband. The annuity payable to the surviving wife or husband after such participant's death shall be 65 per centum of the amount of the participant's annuity computed as prescribed in paragraph (a) of this section, up to the full amount of such annuity specified by him as the base for the survivor benefits. The annuity of the participant making such election shall be reduced by 2½ per centum of any amount up to \$3,600 he specified as the base for the survivor benefit plus 10 per centum of any amount over \$3,600 so specified.

(c) (1) If an annuitant dies and is survived by a wife or husband and by a child or children, in addition to the annuity payable to the surviving wife or husband, there shall be paid to or on behalf of each child an annuity equal to the smallest of: (i) 40 per centum of the annuitant's average basic salary, as determined under paragraph (a) of this section, divided by the number of children; (ii) \$600; or (iii) \$1,800 divided by the number of children.

(2) If an annuitant dies and is not survived by a wife or husband but by a child or children, each surviving child shall be paid an annuity equal to the smallest of: (i) 50 per centum of the annuitant's average basic salary, as determined under paragraph (a) of this section, divided by the number of children; (ii) \$720; or (iii) \$2,160 divided by the number of children.

(d) If a surviving wife or husband dies or the annuity of a child is terminated, the annuities of any remaining children shall be recomputed and paid as though such wife, husband, or child had not survived the participant.

(e) The annuity payable to a child under paragraph (c) or (d) of this section shall begin on the day after the participant dies, and such annuity or any right thereto shall



STAT

1964

CONGRESSIONAL RECORD — SENATE

22211

terminate on the last day of the month before (1) his attaining age eighteen unless incapable of self-support, (2) his becoming capable of self-support after age eighteen, (3) his marriage, or (4) his death, except that the annuity of a child who is a student as described in section 204(b)(3) of this Act shall terminate on the last day of the month before (1) his marriage, (2) his death, (3) his ceasing to be such a student, or (4) his attaining age twenty-one.

(f) Any unmarried participant retiring under the provisions of this Act and found by the Director to be in good health may at the time of retirement elect a reduced annuity, in lieu of the annuity as hereinbefore provided, and designate in writing a person having an insurable interest (as that term is used in section 9(h) of the Civil Service Retirement Act (5 U.S.C. 2259(h))) in the participant to receive an annuity after the participant's death. The annuity payable to the participant making such election shall be reduced by 10 per centum of an annuity computed as provided in paragraph (a) of this section, and by 5 per centum of an annuity so computed for each full five years the person designated is younger than the participant, but such total reduction shall not exceed 40 per centum. The annuity of a survivor designated under this paragraph shall be 55 per centum of the reduced annuity computed as prescribed above. The annuity payable to a beneficiary under the provisions of this paragraph shall begin on the first day of the next month after the participant dies. Upon the death of the surviving beneficiary all payments shall cease and no further annuity payments authorized under this paragraph shall be due or payable.

Part D—Benefits accruing to certain participants

*Retirement for Disability or Incapacity—
Medical Examination—Recovery*

Sec. 231. (a) Any participant who has five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with provisions of section 251 or 252(a)(2), and who becomes totally disabled or incapacitated for useful and efficient service by reason of disease, illness, or injury not due to vicious habits, intemperance, or willful misconduct on his part, shall, upon his own application or upon order of the Director, be retired on an annuity computed as prescribed in section 221. If the disabled or incapacitated participant is under sixty and has less than twenty years of service credit toward his retirement under the system at the time he is retired, his annuity shall be computed on the assumption that he has had twenty years of service, but the additional service credit that may accrue to a participant under this provision shall in no case exceed the difference between his age at the time of retirement and age sixty, but this provision shall not increase the annuity of any survivor.

(b) In each case, the participant shall be given a medical examination by one or more duly qualified physicians or surgeons designated by the Director to conduct examinations, and disability shall be determined by the Director on the basis of the advice of such physicians or surgeons. Unless the disability is permanent, like examinations shall be made annually until the annuitant has reached the statutory mandatory retirement age for his grade as provided in section 235. If the Director determines on the basis of the advice of one or more duly qualified physicians or surgeons conducting such examinations that an annuitant has recovered to the extent that he can return to duty, the annuitant may apply for reinstatement or reappointment in the Agency within one

year from the date his recovery is determined. Upon application the Director may reinstate any such recovered disability annuitant in the grade in which he was serving at time of retirement, or the Director may, taking into consideration the age, qualifications, and experience of such annuitant, and the present grade of his contemporaries in the Agency, appoint him to a grade higher than the one in which he was serving prior to retirement. Payment of the annuity shall continue until a date six months after the date of the examination showing recovery or until the date of reinstatement or reappointment in the Agency, whichever is earlier. Fees for examinations under this provision, together with reasonable traveling and other expenses incurred in order to submit to examination, shall be paid out of the fund. If the annuitant fails to submit to examination as required under this section, payment of the annuity shall be suspended until continuance of the disability is satisfactorily established.

(c) If a recovered disability annuitant whose annuity is discontinued is for any reason not reinstated or reappointed in the Agency, he shall be considered to have been separated within the meaning of paragraphs (a) and (b) of section 234 as of the date he was retired for disability and he shall, after the discontinuance of the disability annuity, be entitled to the benefits of that section or of section 241(a) except that he may elect voluntary retirement in accordance with the provisions of section 233 if he can qualify under its provisions.

(d) No participant shall be entitled to receive an annuity under this Act and compensation for injury or disability to himself under the Federal Employees' Compensation Act of September 7, 1916, as amended (5 U.S.C. 751 et seq.), covering the same period of time. This provision shall not bar the right of any claimant to the greater benefit conferred by either Act for any part of the same period of time. Neither this provision nor any provision of the said Act of September 7, 1916, as amended, shall be so construed as to deny the right of any participant to receive an annuity under this Act by reason of his own services and to receive concurrently any payment under such Act of September 7, 1916, as amended, by reason of the death of any other person.

(e) Notwithstanding any provision of law to the contrary, the right of any person entitled to an annuity under this Act shall not be affected because such person has received an award of compensation in a lump sum under section 14 of the Federal Employees' Compensation Act of September 7, 1916, as amended (5 U.S.C. 764), except that where such annuity is payable on account of the same disability for which compensation under such section has been paid, so much of such compensation as has been paid for any period extended beyond the date such annuity becomes effective, as determined by the Secretary of Labor, shall be refunded to the Department of Labor, to be paid into the Federal employees' compensation fund. Before such person shall receive such annuity he shall (1) refund to the Department of Labor the amount representing such commuted payments for such extended period, or (2) authorize the deduction of such amount from the annuity payable to him under this Act, which amount shall be transmitted to such Department for reimbursement to such fund. Deductions from such annuity may be made from accrued and accruing payments, or may be prorated against and paid from accruing payments in such manner as the Secretary of Labor shall determine, whenever he finds that the financial circumstances of the annuitant are such as to warrant such deferred refunding.

Death in Service

Sec. 232. (a) In case a participant dies and no claim for annuity is payable under the provisions of this Act, his contribution to the fund, with interest at the rates prescribed in sections 241(a) and 281(a), shall be paid in the order of precedence shown in section 241(b).

(b) If a participant, who has at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a)(2), dies before separation or retirement from the Agency and is survived by a widow or a dependent widower, as defined in section 204, such widow or dependent widower shall be entitled to an annuity equal to 55 per centum of the annuity computed in accordance with the provisions of section 221(a). The annuity of such widow or dependent widower shall commence on the date following death of the participant and shall terminate upon death or remarriage of the widow or dependent widower, or upon the dependent widower's becoming capable of self-support.

(c) If a participant who has at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a)(2), dies before separation or retirement from the Agency and is survived by a wife or a husband and a child or children, each surviving child shall be entitled to an annuity computed in accordance with the provisions of section 221(c)(1). The child's annuity shall begin and be terminated in accordance with the provisions of section 221(e). Upon the death of the surviving wife or husband or termination of the annuity of a child, the annuities of any remaining children shall be recomputed and paid as though such wife or husband or child had not survived the participant.

(d) If a participant who has at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a)(2), dies before separation or retirement from the Agency and is not survived by a wife or husband, but by a child or children, each surviving child shall be entitled to an annuity computed in accordance with the provisions of section 221(c)(2). The child's annuity shall begin and terminate in accordance with the provisions of section 221(e). Upon termination of the annuity of a child, the annuities of any remaining children shall be recomputed and paid as though that child had never been entitled to the benefit.

Voluntary Retirement

Sec. 233. Any participant in the system who is at least fifty years of age and has rendered twenty years of service may on his own application and with the consent of the Director be retired from the Agency and receive benefits in accordance with the provisions of section 221 provided he has not less than ten years of service with the Agency of which at least five shall have been qualifying service.

Discontinued Service Benefits

Sec. 234. (a) Any participant who separates from the Agency after having performed not less than five years of service with the Agency, may, upon separation from the Agency or at any time prior to becoming eligible for an annuity, elect to have his contributions to the fund returned to him in accordance with the provisions of section 241, or (except in cases where the Director determines that separation was based in whole or in part on the ground of disloyalty to the United States) to leave his

contributions in the fund and receive an annuity, computed as prescribed in section 221, commencing at the age of sixty-two years.

(b) If a participant who has qualified in accordance with the provisions of paragraph (a) of this section to receive a deferred annuity commencing at the age of sixty-two dies before reaching the age of sixty-two his contributions to the fund, with interest, shall be paid in accordance with the provisions of sections 241 and 281.

Mandatory Retirement

Sec. 235. (a) The Director may in his discretion place in a retired status any participant who has completed at least twenty-five years of service, or who is at least fifty years of age and has completed at least twenty years of service, provided such participant has not less than ten years of service with the Agency of which at least five shall have been qualifying service. If so retired, such participant shall receive retirement benefits in accordance with the provisions of section 221.

(b) Any participant in the system receiving compensation at the rate of grade GS-18 or above shall be automatically separated from the Agency upon reaching the age of sixty-five. Any participant in the system receiving compensation at a rate less than grade GS-18 shall be automatically separated from the Agency upon reaching the age of sixty. Such separation shall be effective on the last day of the month in which a participant reaches age sixty or sixty-five, as specified in this section, but whenever the Director shall determine it to be in the public interest, he may extend such participant's service for a period not to exceed five years. A participant separated under the provisions of this section who has completed five years of Agency service shall receive retirement benefits in accordance with the provisions of section 221 of this Act.

Limitation on Number of Retirements

Sec. 236. The number of participants retiring on an annuity pursuant to sections 233, 234, and 235 of this Act shall not exceed a total of four hundred during the period ending on June 30, 1969, nor a total of four hundred during the period beginning on July 1, 1969, and ending on June 30, 1974.

Part E—Disposition of contributions and interest in excess of benefits received

Sec. 241. (a) Whenever a participant becomes separated from the Agency without becoming eligible for an annuity or a deferred annuity in accordance with the provisions of this Act, the total amount of contributions from his salary with interest thereon at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter compounded annually to December 31, 1956 (or, in the case of a participant separated from the Agency before he has completed five years of service, to the date of separation) and proportionately for the period served during the year of separation including all contributions made during or for such period, except as provided in section 281, shall be returned to him.

(b) In the event that the total contributions of a retired participant, other than voluntary contributions made in accordance with the provisions of section 281, with interest at the rates provided in paragraph (a) of this section added thereto, exceed the total amount returned to such participant or to an annuitant claiming through him, in the form of annuities, the excess of the accumulated contributions over the accumulated annuity payments shall be paid in the following order of precedence, upon the establishment of a valid claim therefor, and such payment shall be a bar to recovery by any other person:

(1) To the beneficiary or beneficiaries designated by such participant in writing to the Director;

(2) If there be no such beneficiary to the surviving wife or husband of such participant;

(3) If none of the above, to the child or children of such participant and descendants of deceased children by representation;

(4) If none of the above, to the parents of such participant or the survivor of them;

(5) If none of the above, to the duly appointed executor or administrator of the estate of such participant;

(6) If none of the above, to other next of kin of such participant as may be determined by the Director in his judgment to be legally entitled thereto.

(c) No payment shall be made pursuant to paragraph (b) (6) of this section until after the expiration of thirty days from the death of the retired participant or his surviving annuitant.

Part F—Period of service for annuities Computation of Length of Service

Sec. 251. For the purpose of this Act, the period of service of a participant shall be computed from the date he becomes a participant under the provisions of this Act, but all periods of separation from the Agency and so much of any leaves of absence without pay as may exceed six months in the aggregate in any calendar year shall be excluded, except leaves of absence while receiving benefits under the Federal Employees' Compensation Act of September 7, 1916, as amended (5 U.S.C. 751 et seq.), and leaves of absence granted participants while performing active and honorable military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States.

Prior Service Credit

Sec. 252. (a) A participant may, subject to the provisions of this section, include in his period of service—

(1) civilian service in the executive, judicial, and legislative branches of the Federal Government and in the District of Columbia government, prior to becoming a participant; and

(2) active and honorable military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States prior to the date of the separation upon which title to annuity is based.

(b) A participant may obtain prior civilian service credit in accordance with the provisions of paragraph (a) (1) of this section by making a special contribution to the fund equal to the percentage of his basic annual salary for each year of service for which credit is sought specified with respect to such year in the table relating to employees contained in section 4(c) of the Civil Service Retirement Act (5 U.S.C. 2254(c)), together with interest computed as provided in section 4(e) of such Act (5 U.S.C. 2254(c)). Any such participant may, under such conditions as may be determined in each instance by the Director, pay such special contributions in installments.

(c) (1) If an officer or employee under some other Government retirement system becomes a participant in the system by direct transfer, such officer or employee's total contributions and deposits, including interest accrued thereon, except voluntary contributions, shall be transferred to the fund effective as of the date such officer or employee becomes a participant in the system. Each such officer or employee shall be deemed to consent to the transfer of such funds and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered prior to becoming a participant in the system.

(2) No participant, whose contributions are transferred to the fund in accordance with the provisions of paragraph (c) (1) of this section, shall be required to make con-

tributions in addition to those transferred for periods of service for which full contributions were made to the other Government retirement fund, nor shall any refund be made to any such participant on account of contributions made during any period to the other Government retirement fund at a higher rate than that fixed for employees by section 4(c) of the Civil Service Retirement Act (5 U.S.C. 2254(c)) for contributions to the fund.

(3) No participant, whose contributions are transferred to the fund in accordance with the provisions of paragraph (c) (1) of this section, shall receive credit for periods of service for which a refund of contributions has been made, or for which no contributions were made to the other Government retirement fund. A participant may, however, obtain credit for such prior service by making a special contribution to the fund in accordance with the provisions of paragraph (b) of this section.

(d) No participant may obtain prior civilian service credit toward retirement under the system for any period of civilian service on the basis of which he is receiving or will in the future be entitled to receive any annuity under another retirement system covering civilian personnel of the Government.

(e) A participant may obtain prior military or naval service credit in accordance with the provisions of paragraph (a) (2) of this section by applying for it to the Director prior to retirement or separation from the Agency. However, in the case of a participant who is eligible for and receives retired pay on account of military or naval service, the period of service upon which such retired pay is based shall not be included, except that in the case of a participant who is eligible for and receives retired pay on account of a service-connected disability incurred in combat with an enemy of the United States or caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is used in chapter 11 of title 38, United States Code), or is awarded under chapter 67 of title 10 of the United States Code, the period of such military or naval service shall be included. No contributions to the fund shall be required in connection with military or naval service credited to a participant in accordance with the provisions of paragraph (a) (2) of this section.

(f) Notwithstanding any other provision of this section or section 253 any military service (other than military service covered by military leave with pay) performed by a participant after December 1956 shall be excluded in determining the aggregate period of service upon which an annuity payable under this Act to such participant or to his widow or child is to be based, if such participant or widow or child is entitled (or would upon proper application be entitled) at the time of such determination, to monthly old-age or survivors' benefits under section 202 of the Social Security Act, as amended (42 U.S.C. 402), based on such participant's wages and self-employment income. If in the case of the participant or widow such military service is not excluded under the preceding sentence, but upon attaining age sixty-two, he or she becomes entitled (or would upon proper application be entitled) to such benefits, the aggregate period of service upon which such annuity is based shall be reetermined, effective as of the first day of the month in which he or she attains such age, so as to exclude such service.

Credit for Service While on Military Leave

Sec. 263. (a) A participant who, during the period of any war, or of any national emergency as proclaimed by the President or declared by the Congress, has left or leaves his position to enter the military service shall not be considered, for the purposes of

1964

CONGRESSIONAL RECORD — SENATE

this Act, as separated from his Agency position by reason of such military service, unless he shall apply for and receive a refund of contributions under this Act: *Provided*, That such participation shall not be considered as retaining his Agency position beyond December 31, 1956, or the expiration of five years of such military service, whichever is later.

(b) Contributions shall not be required covering periods of leave of absence from the Agency granted a participant while performing active military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States.

*Part G—Moneys**Estimate of Appropriations Needed*

Sec. 261. The Director shall prepare the estimates of the annual appropriations required to be made to the fund, and shall cause to be made actuarial valuations of the fund at intervals of five years, or oftener if deemed necessary by him.

Investment of Moneys in the Fund

Sec. 262. The Director may, with the approval of the Secretary of the Treasury, invest from time to time in interest-bearing securities of the United States such portions of the fund as in his judgment may not be immediately required for the payment of annuities, cash benefits, refunds, and allowances, and the income derived from such investments shall constitute a part of such fund.

Attachment of Moneys

Sec. 263. None of the moneys mentioned in this Act shall be assignable either in law or equity, or be subject to execution, levy, attachment, garnishment, or other legal process.

*Part H—Retired participants recalled, reinstated, or reappointed in the Agency, or reemployed in the Government**Recall*

Sec. 271. (a) The Director may, with the consent of any retired participant, recall such participant to duty in the Agency whenever he shall determine such recall is in the public interest.

(b) Any such participant recalled to duty in the Agency in accordance with the provisions of paragraph (a) of this section or reinstated or reappointed in accordance with the provisions of section 231(b) shall, while so serving, be entitled in lieu of his annuity to the full salary of the grade in which he is serving. During such service, he shall make contributions to the fund in accordance with the provisions of section 211. When he reverts to his retired status, his annuity shall be determined anew in accordance with the provisions of section 221.

Reemployment

Sec. 272. Notwithstanding any other provision of law, a participant retired under the provisions of this Act shall not, by reason of his retired status, be barred from employment in Federal Government service in any appointive position for which he is qualified. An annuitant so reemployed shall serve at the will of the appointing officer.

Reemployment Compensation

Sec. 273. (a) Notwithstanding any other provision of law, any annuitant who has retired under this Act and who is employed in the Federal Government service in any appointive position either on a part-time or full-time basis shall be entitled to receive his annuity payable under this Act, but there shall be deducted from his salary a sum equal to the annuity allocable to the period of actual employment.

(b) In the event of any overpayment under this section, such overpayment shall be recovered by withholding the amount involved from the salary payable to such reemployed annuitant, or from any other moneys, in-

cluding his annuity, payable in accordance with the provisions of this Act.

Part I—Voluntary contributions

Sec. 281. (a) Any participant may, at his option and under such regulations as may be prescribed by the Director, deposit additional sums in multiples of 1 per centum of his basic salary, but not in excess of 10 per centum of such salary, which amounts together with interest at 3 per centum per annum, compounded annually as of December 31, and proportionately for the period served during the year of his retirement, including all contributions made during or for such period, shall, at the date of his retirement and at his election, be—

- (1) returned to him in a lump sum;
- (2) used to purchase an additional life annuity;

(3) used to purchase an additional life annuity for himself and to provide for a cash payment on his death to a beneficiary whose name shall be notified in writing to the Director by the participant; or

(4) used to purchase an additional life annuity for himself and a life annuity commencing on his death payable to a beneficiary whose name shall be notified in writing to the Director by the participant with a guaranteed return to the beneficiary or his legal representative of an amount equal to the cash payment referred to in subparagraph (3) above.

(b) The benefits provided by subparagraphs (2), (3), or (4) of paragraph (a) of this section shall be actuarially equivalent in value to the payment provided for by subparagraph (a) (1) of this section and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Director.

(c) In case a participant shall become separated from the Agency for any reason except retirement on an annuity, the amount of any additional deposits with interest at 3 per centum per annum, compounded as is provided in paragraph (a) of this section, made by him under the provisions of said paragraph (a) shall be refunded in the manner provided in section 241 for the return of contributions and interest in the case of death or separation from the Agency.

(d) Any benefits payable to a participant or to his beneficiary in respect to the additional deposits provided under this section shall be in addition to the benefits otherwise provided under this Act.

Part J—Cost-of-living adjustment of annuities

Sec. 291. (a) On the basis of determinations made by the Civil Service Commission pursuant to section 18 of the Civil Service Retirement Act, as amended, pertaining to per centum change in the price index, the following adjustments shall be made:

(1) Effective April 1, 1966, if the change in the price index from 1964 to 1965 shall have equaled a rise of at least 3 per centum, each annuity payable from the fund which has a commencing date earlier than January 2, 1965, shall be increased by the per centum rise in the price index adjusted to the nearest one-tenth of 1 per centum.

(2) Effective April 1 of any year other than 1966 after the price index change shall have equaled a rise of at least 3 per centum, each annuity payable from the fund which has a commencing date earlier than January 2 of the preceding year shall be increased by the per centum rise in the price index adjusted to the nearest one-tenth of 1 per centum.

(b) Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the funds as of the effective date of an increase, except as follows:

(1) Effective from the date of the first increase under this section, an annuity pay-

able from the fund to an annuitant's survivor (other than a child entitled under section 221(c)), which annuity commenced the day after the annuitant's death, shall be increased as provided in subsection (a) (1) or (a) (2) if the commencing date of annuity to the annuitant was earlier than January 2 of the year preceding the first increase.

(2) Effective from its commencing date, an annuity payable from the fund to an annuitant's survivor (other than a child entitled under section 221(c)), which annuity commences the day after the annuitant's death and after the effective date of the first increase under this section, shall be increased by the total per centum increase the annuitant was receiving under this section at death.

(3) For purposes of computing an annuity which commences after the effective date of the first increase under this section to a child under section 221(c), the items \$600, \$720, \$1,800, and \$2,160 appearing in section 221(c) shall be increased by the total per centum increase allowed and in force under this section and, in case of a deceased annuitant, the items 40 per centum and 50 per centum appearing in section 221(c) shall be increased by the total per centum increase allowed and in force under this section to the annuitant at death. Effective from the date of the first increase under this section, the provisions of this paragraph shall apply as if such first increase were in effect with respect to computation of a child's annuity under section 221(c) which commenced between January 2 of the year preceding the first increase and the effective date of the first increase.

(c) No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

(d) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar.

Mr. STENNIS. Mr. President, the purpose of the proposed legislation is to provide an improved retirement system for certain employees of the Central Intelligence Agency.

I ask unanimous consent that I may yield to the Senator from Massachusetts [Mr. SALTONSTALL], one of those who worked on the bill, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SALTONSTALL. Mr. President, as ranking minority member of the Committee on Armed Services, I would like to supplement the remarks of Senator STENNIS on H.R. 8427, which is aimed at improving the retirement system for a certain segment of the employees of the Central Intelligence Agency. I would like to emphasize the following points on this bill.

The purpose of this bill is to provide an improved retirement system only for those Central Intelligence Agency employees who are actually involved in supporting or conducting our U.S. intelligence operation abroad. These people are involved in activities which are hazardous to their life and health. As these people become older and move into their early fifties it is not possible, because of the rigorous conditions of service, for all of them to serve the further period of time necessary for them to qualify for immediate retirement under the normal civil service rules.

22214

CONGRESSIONAL RECORD — SENATE

September 25

II

This bill, in effect, does three things. First, it permits these employees to be retired with an immediate annuity beginning at age 50 if they have completed 20 years service or, without regard to age, if they have completed 25 years of service. Second, it contains no financial penalty for retirement as is applicable to civil service retirement under age 60. Third, it provides that these employees for each year of creditable service will have their retired pay based on a flat 2 percent of their highest 5-year average salary as compared to the civil service provisions which provide for a lesser retirement multiplier for the first 10 years of service.

III

The Senate version of this bill has been greatly tightened as compared to the House version. One of the principal committee amendments is the limitation which provides that not more than 400 persons may retire under this act between now and June 30, 1969 and not more than 400 over the following 5-year period. There are a number of other major amendments to this bill all of which are set forth in the committee report beginning on page 6.

IV

This legislation was reported unanimously by the Senate Committee on Armed Services. The bill is essential in order to meet the retirement problem caused by the severe conditions of service for this small group of men who so ably serve their country throughout the world.

I join Senator STENNIS in urging its immediate adoption by the Senate.

Mr. President, I believe the purpose of the bill is an eminently fair one and is justified for the comparatively small number of employees for whom it provides these benefits.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. AIKEN. Does the retirement system for CIA employees employed in foreign countries apply to aliens as well as to citizens of the United States?

Mr. STENNIS. The bill contains two specific provisions on this point. First, it provides that the Director, in naming the employees to be covered under this system, shall designate only those determined by him to be in support of Agency activities abroad, and in duties hazardous to the life and health of the employee.

Mr. AIKEN. That means that the retirement could apply to aliens—foreigners?

Mr. STENNIS. No; it will apply only to U.S. citizens.

Mr. AIKEN. Only to U.S. citizens?

Mr. STENNIS. That is correct. The bill will cover only U.S. citizens.

Mr. AIKEN. When those people go on retirement am I correct in assuming that their names will be kept secret while they are employed?

Mr. STENNIS. No; there will be no secret list of those people after they are retired.

Mr. AIKEN. Very well.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. RUSSELL. This retirement system is largely patterned on the retirement system for foreign service personnel. It is not quite so liberal as the retirement system for foreign service personnel abroad. We made some parts of it conform to the civil service retirement system rather than the system for foreign service employees abroad; but, generally speaking, it is patterned upon the retirement system for foreign service employees overseas.

Mr. AIKEN. A very generous system. With that explanation and that understanding, I have no objection.

Mr. STENNIS. I think that summarizes the bill in large part. Generally speaking, this special system for a limited number of CIA employees is based upon the retirement system for Foreign Service employees abroad, except that it is not so broad and general, but is more limited.

Also, there is a limitation on the number that can be retired under this bill. Not more than 400 may be retired under this legislation during the period from the date of enactment to June 30, 1969. There is also a limitation of 400 during the next 5-year period from June 1, 1969, until June 30, 1974.

Mr. AIKEN. In determining the amount of retirement benefits, I presume that previous service in other agencies of the Government would be taken into consideration?

Mr. STENNIS. Yes; that would be a part of the compensation.

At the present time all employees of the Central Intelligence Agency are under the normal civil service provisions for retirement purposes. The need for this bill arises from the fact that because of the conditions of service, not all of the CIA employees who are supporting and conducting intelligence activities abroad can anticipate the period of employment required for retirement under the present civil service provisions. For this segment of CIA employees this bill creates a special retirement system which will make it possible for these employees to retire at an earlier age and with a less severe financial penalty than the present civil service system employees. It is expected that not more than 30 percent of the Agency employees would be covered under this new system. Not all of these, of course, would ever qualify for retired pay.

As we all know, the entire CIA operation is an intelligence effort. At this point, Mr. President, the question naturally arises as to how there can be a clear line of distinction between those employees who would be covered under this bill and those who would remain under the civil service system. The bill contains two specific provisions on this point. First, it provides that the Director, in naming the employees to be covered under this system, will designate only those determined by him to be in support of Agency activities abroad, and hazardous to the life and health of the employee, or only those whose duties are so specialized,

because of security requirements, to be clearly distinguishable from normal Government employment. Second, there is a specific limitation, not in the House version, which provides that except for disability retirements, not more than 400 employees will be retired under this legislation during the period from the date of enactment to June 30, 1969. Also, there is a limitation of 400 for the next 5-year period between July 1, 1969, and June 30, 1974.

It should also be emphasized, Mr. President, that the rules and regulations of the Director for establishing and maintaining this system will become effective only after approval by the chairmen and ranking minority members of the House and Senate Committees on Armed Services.

PRECEDENTS

The precedents for this type of legislation may be found in the provisions now applicable to certain personnel of the Federal Bureau of Investigation and other Federal investigative and criminal detection activities, and the separate statute now applicable to Foreign Service officers. The premise underlying this bill, as well as the foregoing provisions, is a need for encouraging, and in some cases directing retirement at ages earlier than those contemplated by the normal civil service employee.

HIGHLIGHTS

Mr. President, before discussing the details of this legislation I would like to make two observations. First, even though this is a lengthy bill, many of the provisions are similar to those contained in the civil service retirement bill. A repetition of language is necessary since the covered employees will be retiring under the separate legal system established by this bill. Second, the version now before the Senate is considerably more restrictive than the form in which the bill passed the House. For the most part, the House version was similar to the Foreign Service Retirement Act whose provisions are more liberal than the civil service system. The committee was of the opinion, however, that this special retirement problem of the CIA could be adequately met with a system more similar to the civil service system than the House version proposes. The committee amendments for the most part are changes which conform the bill to the various provisions now contained in the Civil Service Retirement Act.

My discussion will outline the manner in which the bill departs from the existing civil service system for the special CIA employees who would be covered.

RETIREMENT FUND

Mr. President, the bill would create a retirement fund to be maintained by the Director. The employees would contribute 6½ percent of their basic salary. In addition, the Director would make estimates for annual appropriations for the fund. The past contributions of employees would be transferred in this fund. It is also expected that past contributions by the Government would also be transferred. Finally, in order to insure a sound retirement system, the bill requires

1964

CONGRESSIONAL RECORD — SENATE

22215

an actuarial evaluation of the fund at intervals of not more than 5 years.

PARTICIPANTS

Under the criteria already discussed, the Director would designate the persons known as participants who would be under the special system. Each participant's record would be reviewed at least every 5 years in order to determine if they should remain under this system. The bill does contain a provision inserted in the House providing that after 15 years of service, if the Director adjudges a person to be qualified for coverage under this system, he may elect to remain under this retirement program and not be subject to further review by the Director for retirement coverage purposes.

Mr. President, we now come to the question of just what does this bill provide for the people who are designated as participants.

First, the bill provides for an increase in what is now known as the retirement multiplier. It provides that those under this system will have their retired pay computed on the basis of 2 percent of their average salary of the highest 5 consecutive years. This average would then be multiplied by the number of creditable years of service, not to exceed 35, with the result that the maximum amount of retired pay would be 70 percent of the highest 5-year average.

As we know, under the normal civil service formula the first 5-year period is computed on the basis of 1½ percent of the highest salary for 5 consecutive years, the next 5 years 1¾ percent, with the remaining service over 10 years at 2 percent. The bill would therefore extend to these employees the 2-percent formula for the first 10 years as compared to the lesser civil service percentages for the first 10 years.

RETIREMENT WITHOUT PENALTY

Mr. President, under the normal civil service, all retirements below age 60 incur a penalty; that is, a reduction in retired pay, even if one is otherwise eligible for retirement. The penalty is 1 percent in retired pay for each year under age 60 to age 55 and 2 percent in retired pay for each year below age 55. As an example, at age 50 the retired pay would be reduced by 15 percent.

Mr. President, the bill does not provide for any penalty in retired pay, and if the person is otherwise eligible he will be permitted to retire under the normal 2-percent formula.

VOLUNTARY RETIREMENT AT AGE 50

The bill would permit participants beginning at age 50, upon application, with the consent of the Director, to retire voluntarily, if they have completed a total of 20 years of service, including at least 10 years with the CIA and a minimum of at least 5 years of qualifying service. It is expected that normally all of the creditable service would be in the nature of qualifying service. In certain cases, however, participants may have completed prior military service or service in some other Government agency. With respect to service within the CIA, except for periods of rotation, most of the service would be of a qualifying nature; that is, duties involved in the con-

duct and support of intelligence activities abroad.

As an example, Mr. President, if a man was 55 years of age and had completed 25 years of service, he could voluntarily retire with 50 percent of his highest 5-year average. If he were under the civil service system he could voluntarily retire at age 55 only if he had completed 30 years of service and even here at a 5-percent reduction in retired pay. As we all know, under the civil service system retirement below age 55 is permitted only if the separation is involuntary.

MANDATORY RETIREMENT AT AGE 50 AND ABOVE

The bill provides that the Director in his discretion may mandatorily retire participants who are at least 50 years of age and have completed the same service required for voluntary retirement. His retired pay would be based on the 2-percent formula.

MANDATORY RETIREMENT WITH AT LEAST 25 YEARS OF SERVICE

The bill further provides that the Director may involuntarily retire participants who have completed a total of 25 years of service without regard to age, provided the person has completed at least 10 years of service with the Agency, of which at least 5 years are qualifying. There is a similar 25-year involuntary provision under civil service, with the distinction, of course, that such retirements would incur a penalty.

MANDATORY RETIREMENT BASED ON AGE

The bill provides that participants in the grade of GS-18 or above will be mandatorily retired upon reaching 65. Those below GS-18 would be mandatorily retired at age 60. The Director could in all cases extend the participation service for a period not to exceed 5 years. This provision is of somewhat limited significance since there is no statutory tenure for CIA employees. The Director can terminate the employment at any time.

DISABILITY SYSTEM

The bill contains provisions for a disability system comparable to that for civil service employees with the exception that the disability retirement pay would be based on the 2-percent formula.

OTHER FEATURES

Mr. President, the bill contains a number of other provisions, most of which are similar to those contained in the Civil Service Retirement Act. These relate, among other matters, to the question of deferred annuities, payments for widows and children, cost-of-living increases, and provisions relating to the administration of the retirement system and fund. All of these matters are set forth in detail in the committee report and I shall not attempt to discuss them as a part of my statement.

COST

Mr. President, with respect to the cost of this special system, it is anticipated that over the next 4½ years, through June 30, 1969, the total expenditures from the retirement fund would be approximately \$4 million. On an annual basis this would average about \$900,000 a year.

I should also like to emphasize that in terms of additional cost, that is, the cost

of retiring persons under this bill, as compared to the cost if they would be retired under the civil service provisions, there will be expended an estimated \$600,000 over the next 4½-year period, or about \$132,000 on an annual basis. This \$600,000 figure is, of course, included within the total expenditure of \$4 million.

SUMMARY

Mr. President, it is my personal view that as a matter of general policy the Congress should not enact legislation which encourages the early retirement of our Government employees. Too often it appears that retirement becomes an end in itself, with the result that people are often retired at a time when they could continue to render valuable service. The committee felt, however, that because of the special circumstances involved, this bill is justified in order to meet the special problems and conditions of service with which a segment of the CIA employees are confronted.

I regret that the security implications of this general subject do not permit a more extensive discussion of some of the fact situations. I am sure that all Members of the Senate, however, appreciate the general sensitivity surrounding any discussion of this general subject.

I might observe that one particular part of the bill relating to the security aspects is the provision requiring that the rules and regulations for implementing the act be approved by the chairmen and ranking minority members of the House and Senate Committees on Armed Services. It is planned that the criteria for qualifying under this retirement program will be somewhat detailed and strict. The security implications do not permit disclosure of this aspect of the program. This provision, however, insures that the appropriate committee representatives will be fully aware of the operation of this program.

I urge the Senate to adopt this legislation as amended by the Committee on Armed Services.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 8427) was read the third time and passed.

Mr. SALTONSTALL. Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OUTLAWING OF CERTAIN PRACTICES IN CONNECTION WITH PLACING OF MINOR CHILDREN FOR PERMANENT FREE CARE OR FOR ADOPTION

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1532, S. 1541.